

For the reasons discussed below, plaintiffs' request for leave to amend is GRANTED.

DISCUSSION

Courts "should freely give leave [to amend] when justice so requires." Fed. R. Civ. P. 15(a)(2). "This permissive standard is consistent with [a] strong preference for resolving disputes on the merits." Williams v. Citigroup Inc., 659 F.3d 208, 212–13 (2d Cir. 2011) (internal quotations omitted). A court "may deny leave if the amendment (1) has been delayed unduly, (2) is sought for dilatory purposes or is made in bad faith, (3) would prejudice the opposing party or (4) would be futile." Duling v. Gristede's Operating Corp., 265 F.R.D. 91, 96 (S.D.N.Y. 2010) (original alterations omitted); accord, Lee v. Regal Cruises, Ltd., 916 F. Supp. 300, 303 (S.D.N.Y. 1996).

Plaintiffs' request for leave to amend their complaint is granted. There has been no undue delay because plaintiffs sought leave to amend less than two weeks after defendant filed its Rule 12(c) motion. The substitution of Zacco is not in bad faith because it would cure at least one of the deficiencies identified by defendant in the motion. Plaintiffs' proposed amendment is not futile, nor does any prejudice result from the substitution of one plaintiff for another prior to any discovery or any decision on defendant's motion for judgment on the pleadings.

CONCLUSION

Plaintiffs' request for leave to file a second amended complaint is GRANTED.

Plaintiffs shall separately file the second amended complaint by no later than November 6, 2020.

The Court DENIES WITHOUT PREJUDICE defendant's motion for judgment on the pleadings.

Defendant shall answer, move, or otherwise respond to the second amended complaint within 21 days of its filing.

The Clerk is instructed to terminate the motions. (Docs. ##24, 27).

Dated: October 30, 2020
White Plains, NY

SO ORDERED:

A handwritten signature in black ink, appearing to read "Vincent Briccetti", written over a horizontal line.

Vincent L. Briccetti
United States District Judge